

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 1135**

**House Bill No. 1745**

by deleting all the language after the word "Tennessee." in Section 1.

AND FURTHER AMEND by deleting Sections 3 through 11 of the printed bill in their entirety and by substituting instead the following:

**SECTION 3.**

(a) Notwithstanding any other law, a person who makes a voluntary disclosure and who complies with all of the following requirements is subject to enforcement only under the conditions set out in this section:

(1) The person discloses to the department the discovery of any violation or potential violation of environmental laws within fourteen (14) days after the person learns of the violation or potential violation.

(2) The person corrects any violation within ninety days after the discovery or enters into a stipulation with the department that provides for an extension of the ninety (90) day correction period.

(3) The person indicates clearly in the report to the department the measures taken to ensure that the violation does not recur.

(b) A person who makes a voluntary disclosure is eligible for mitigation, up to zero penalty, of any civil enforcement penalties otherwise authorized by law, and initiated or imposed by the department or a city, town or county as a result of that disclosure unless any of the following conditions is met:

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(1) The violation disclosed is a repeat of a violation that occurred within the immediately preceding three (3) years.

(2) The violation disclosed potentially may result in serious environmental harm or imminent danger to public health or the environment.

(3) The person who disclosed the violation achieved a significant economic benefit from noncompliance with environmental statutes or rules.

(4) The person failed to disclose the violation within fourteen days after the person learned of the violation.

(5) The violation is part of a repetitive pattern of noncompliance.

(6) The person reported the violation only after learning of an investigation or enforcement action being conducted by a government agency.

(7) The department or a city, town or county discovered the violation before the person reported the violation to the department.

(c) A person who makes a voluntary disclosure is eligible for mitigation of any state, city, town or county civil or criminal penalties otherwise authorized by law. In determining mitigation of a criminal or civil penalty for a person who makes a voluntary disclosure, the department, city, town or county in the case of

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a civil penalty or the court in the case of a criminal penalty, shall consider all of the following:

- (1) Timeliness of the disclosure;
- (2) Any good faith efforts to comply with the applicable requirements;
- (3) The economic impact of the penalty on the violator;
- (4) Any remedial actions taken relating to the disclosure; and
- (5) Other factors the government entity or court deems relevant.

(d) After a voluntary disclosure has been made, the presumption of eligibility for mitigation prescribed by subsection (a) of this Section is rebutted if any of the following applies:

- (1) The person making the disclosure fails to initiate appropriate action within a reasonable time to remedy known violations of environmental laws suggested by the information disclosed; or
- (2) The person fails to achieve or make reasonable progress toward achieving compliance with those environmental laws within a reasonable time after initiating action. In this paragraph, "reasonable progress" includes a comprehensive program establishing a phased schedule of actions to be taken to bring the person into compliance.

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(e) Any person who makes a voluntary disclosure shall do so in a manner prescribed by the commissioner of the department.

(f) A person who discloses pursuant to subsection (a) has the burden of proving that a voluntary disclosure was made, and the department, prosecuting authority or other entity seeking to impose the penalty has the burden of proving that the person did not comply with subsection (a). A determination regarding compliance with this section is subject to review by the Chancery Court of Davidson County.

(g) The mitigation of administrative or civil remedies or criminal remedies for a violation of an environmental law under this section does not apply to a person who has been found by a court to have knowingly or recklessly violated that environmental law in a manner that manifests an extreme indifference to human life. For purposes of this subsection, the person's actions outside of this state shall not be considered.

(h) For purposes of this section, "administrative or civil remedies" includes orders, injunctions and penalties.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

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SECTION 5. This act shall take effect upon becoming law, the public welfare  
requiring it.